

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

KUMAR NAHARAJA,

Plaintiff,

v.

CARTER D. WRAY, et al.,

Defendants.

No. 3:13-cv-01261-HZ

OPINION & ORDER

Kumar Naharaja  
930 NW 25th Pl., Apt. 402  
Portland, OR 97210

Pro se Plaintiff

Amy Joseph Pedersen  
Andrea H. Thompson  
STOEL RIVES LLP  
900 SW 5th Ave., Suite 2600  
Portland, OR 97204

Attorneys for Defendants

HERNÁNDEZ, District Judge:

Pro se Plaintiff Dr. Kumar Naharaja applies to proceed *in forma pauperis* (IFP) in his appeal of this action. Plaintiff's application is denied.

### STANDARDS

Under Rule 24(a) of the Federal Rules of Appellate Procedure:

A party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (c) states the issues that the party intends to present on appeal.

Under subsection (a)(3)(A) and 28 U.S.C. 1915, a party may not proceed IFP on appeal if the district court certifies that the appeal is not taken in good faith. An appeal not taken in good faith is one that is frivolous, meaning the result is obvious or the arguments are wholly without merit.

See Matter of Hawaii Corp., 796 F.2d 1139, 1144 (9th Cir. 1986) (citations omitted).

### DISCUSSION

Since July of 2013, Plaintiff has attempted to bring a discrimination suit arising out of his termination from the Graduate Medical Education residency training program at Oregon Health Science University (OHSU). On August 6, 2014, this Court granted Defendants' motion to dismiss for failure to comply with Federal Rules of Civil Procedure 8(a)(2) and 12(b)(6).

Opinion & Order, August 6, 2014, ECF 115.

On June 30, 2015, this Court granted Defendants' second motion to dismiss for several reasons<sup>1</sup>. Opinion & Order, June 30, 2015, ECF 162. First, Plaintiff's Title VII claims against eighteen individually-named defendants were dismissed because Title VII does not provide a

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<sup>1</sup> The June 30, 2015 Opinion & Order also denied Plaintiff's fifth request for an extension of time to respond to Defendants' motion because Plaintiff had already been granted eighteen extensions of time in this case. This Court found both bad faith on the part of Plaintiff and substantial prejudice to Defendants.

cause of action against individual supervisors or coworkers. Second, this Court dismissed Plaintiff's Title VII claims in their entirety because Plaintiff failed to allege that he was discriminated or retaliated against due to his race/color, national origin, or religion. Third, Plaintiff's claims under the Oregon Unlawful Employment Discrimination Law, ORS 659.030, were dismissed for the same reasons the Court dismissed his Title VII claims. Finally, Plaintiff's criminal law claims were dismissed because, as a private individual, Plaintiff had no authority to bring criminal charges such as "fraudulent concealment of Class C felony and severe forms of trafficking in persons."<sup>2</sup>

On June 30, 2015, this Court entered judgment, dismissing this case with prejudice and denying all pending motions as moot. Judgment, June 30, 2015, ECF 163. On October 12, 2015, this court denied Plaintiff's motion to vacate the judgment. Opinion & Order, October 12, 2015, ECF 186. On November 12, 2015, Plaintiff filed a Notice of Appeal to the 9th Circuit, ECF 188, and the present motion for leave to proceed IFP.

For almost two years, Plaintiff was given an opportunity to submit a complaint that complied with Federal Rule of Civil Procedure 12(b)(6). Plaintiff was unwilling or unable to do so. The Court has already found that Plaintiff's claims are meritless and there is no indication that Plaintiff's appeal would produce a different result. Accordingly, any appeal of this Court's dismissal would not be taken in good faith.

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<sup>2</sup> The Court noted in its June 30, 2015 Opinion & Order that it had already explained this to Plaintiff in its September 25, 2014 Opinion & Order.

CONCLUSION

Plaintiff's application to proceed *in forma pauperis* [189] is DENIED.

IT IS SO ORDERED.

Dated this 28 day of November, 2015.

A handwritten signature in cursive script that reads "Marco Hernández". The signature is written in black ink and is positioned above a horizontal line.

MARCO A. HERNÁNDEZ  
United States District Judge